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## **BOND TRUST INDENTURE**

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THIS BOND TRUST INDENTURE (the "Indenture"), dated as of April 1, 2005, is between MONROE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY, a public body corporate and politic of the State of Florida, and WACHOVIA BANK, NATIONAL ASSOCIATION, a national banking association (the "Trustee"), duly incorporated and existing under the laws of the United States of America, with its designated corporate trust office in Miami, Florida.

### **PRELIMINARY STATEMENT**

WHEREAS, by virtue of the authority of the Constitution and laws of the State of Florida (the "State"), and particularly Chapter 159, Parts II and III, Florida Statutes, as amended, and other applicable provisions of law (collectively, the "Act"), the Issuer is empowered to issue its bonds, to finance the cost of the acquisition, construction and equipping of a "project" under the Act; and

WHEREAS, pursuant to Section 159.43, Florida Statutes, as amended, the Act mandates that the provisions of the Act shall be liberally construed to effect the purposes thereof; and

WHEREAS, North Key Largo Utility Corp. (the "Borrower") is a corporation organized and existing under the laws of the State of Florida and is engaged in the operation of a wastewater utility system under the laws of the State of Florida; and

WHEREAS, the Borrower has requested the Issuer to issue its Bonds under the Act for the purpose of exchanging said Bonds with the holders of all or a portion of the outstanding Industrial Development Revenue Bonds (North Key Largo Utility Corp. Project), Series 1995 (the "1995 Bonds"), issued by the Issuer on March 9, 1995, in order to achieve a savings in debt service and to restructure the covenants relating to the 1995 Bonds, all as further described in the Loan Agreement hereinafter referenced; and

WHEREAS, the Issuer is authorized under the Act to issue bonds for the purposes aforesaid and the Issuer has heretofore determined that the public interest and paramount public purposes would best be served and that the purposes of the Act of providing modern and efficient wastewater facilities in northern Monroe County, Florida needed for the welfare and benefit of the citizens thereof, would be most advantageously obtained by the Issuer's issuance of bonds in order to accomplish the purposes of the Borrower; and

WHEREAS, it has been determined that for the purposes aforesaid the Issuer will issue bonds in a principal amount of \$\_\_\_\_\_ to be known as the "Monroe County Industrial Development Authority Industrial Development Revenue Bonds (North Key Largo Utility Corp. Project), Series 2005" (the "Bonds"); and



WHEREAS, the Issuer has entered into a loan agreement dated the date hereof with the Borrower providing for the payment of principal, premium, if any, and interest on the Bonds as the same become due and payable (the "Loan Agreement"); and

WHEREAS, simultaneously with the issuance of the Bonds, and as collateral security for the loan, the Borrower, as an issuer of Master Notes under and pursuant to the Master Trust Indenture dated as of April 1, 2005 by and between the Borrower and Wachovia Bank, National Association, as master trustee (the "Master Indenture"), will execute and deliver to the Issuer a Master Note, Series 2005; and

WHEREAS, all things necessary to make the Bonds, when authenticated by the Bond Trustee and issued as provided in this Indenture, the valid, binding and legal obligations of the Issuer according to the import thereof; and to constitute this Indenture a valid assignment and pledge of the payments and prepayments upon the Master Note, Series 2005 and to provide for the payment of the principal of, premium, if any, and interest on the Bonds and a valid assignment of the right, title and interest of the Issuer under the Loan Agreement and amounts payable to the Issuer under the Loan Agreement (except Unassigned Rights, as hereinafter defined), have been done and performed, and the creation, execution and delivery of this Indenture, and the creation, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized:

NOW, THEREFORE, WITNESSETH:

That the Issuer in consideration of the premises and of the purchase of the Bonds and of other good and lawful consideration, the receipt of which is hereby acknowledged, and to secure the payment of the principal of, premium, if any, and interest on the Bonds and the performance and observance of all of the covenants and conditions herein or therein contained, has executed and delivered this Indenture and (without recourse or warranty) has conveyed, granted, assigned, transferred, pledged, set over and confirmed and granted a security interest and a first lien in and by these presents does hereby (without recourse or warranty) convey, grant, assign, transfer, pledge, set over and confirm and grant a security interest and a first lien, unto the Bond Trustee, its successor or successors and its or their assigns forever, in trust with power of sale, all and singular, the property, real and personal, hereinafter described (said property being herein sometimes referred to as the "Trust Estate") to wit:

## **GRANTING CLAUSES**

### **DIVISION I**

All right, title and interest of the Issuer in and to the Master Note, Series 2005 and all sums payable in respect of the indebtedness evidenced thereby;

### **DIVISION II**

All right, title and interest of the Issuer in and to the Loan Agreement and the amounts payable to the Issuer under the Loan Agreement (excluding Unassigned Rights);



### **DIVISION III**

Any and all other property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, conveyed, pledged, assigned or transferred as and for additional security hereunder by the Issuer, the Borrower or by anyone on their behalf to the Bond Trustee, including without limitation funds of the Borrower held by the Bond Trustee in any of the funds established hereunder as security for the Bonds;

### **EXCEPTED PROPERTY**

There is, however, expressly excepted and excluded from the lien and operation of this Indenture amounts held by the Bond Trustee in any rebate fund created to hold funds to be paid on behalf of the Issuer to the U.S. Treasury pursuant to Section 148 of the Code;

TO HAVE AND TO HOLD, all and singular, the properties and the rights and privileges hereby conveyed, assigned and pledged by the Issuer or intended so to be, unto the Bond Trustee and its successors and assigns forever, in trust, nevertheless, with power of sale for the equal and pro rata benefit and security of each and every owner of the Bonds issued and to be issued hereunder, without preference, priority or distinction as to participation in the benefit and protection hereof of one Bond over or from the others, by reason of priority in the issue or negotiation or maturity thereof; or for any other reason whatsoever, except as herein otherwise expressly provided, so that each and all of such Bonds shall have the same right, lien and privilege under this Indenture and shall be equally secured hereby with the same effect as if the same had all been made, issued and negotiated simultaneously with the delivery hereof and were expressed to mature on one and the same date;

PROVIDED, NEVERTHELESS, and these presents are upon the express condition, that if the Issuer or its successors or assigns shall well and truly pay or cause to be paid the principal of such Bonds with interest according to the provisions set forth in the Bonds or shall provide for the payment or redemption of such Bonds by depositing or causing to be deposited with the Bond Trustee the entire amount of funds or securities required for payment or redemption thereof when and as authorized by the provisions hereof; and shall also pay or cause to be paid all other sums payable hereunder by the Issuer, then these presents and the estate and rights hereby granted shall cease, terminate and become void, and thereupon the Bond Trustee, on payment of its lawful charges and disbursements then unpaid, on demand of the Issuer and upon the payment of the cost and expenses thereof, shall duly execute, acknowledge and deliver to the Issuer such instruments of satisfaction or release as may be necessary or proper to discharge this Indenture, including if appropriate any required discharge of record, and if necessary shall grant, reassign and deliver to the Issuer, its successors or assigns, all and singular the property, rights, privileges and interests by it hereby granted, conveyed, assigned and delivered, and all substitutes therefor, or any part thereof, not previously disposed of or released as herein provided; otherwise this Indenture shall be and remain in full force.

AND IT IS HEREBY COVENANTED, DECLARED AND AGREED by and between the parties hereto that all Bonds are to be issued, authenticated and delivered, and that all the Trust Estate is to be held and applied, subject to the further covenants, conditions, releases, uses and trusts hereinafter set forth, and the Issuer, for itself and its successors, does hereby covenant



and agree to and with the Bond Trustee and its respective successors in said trust, for the benefit of those who shall own the Bonds, or any of them as follows:

## ARTICLE I

### DEFINITIONS

#### Section 1.1. Definitions.

Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Bond Indenture and of any indenture supplemental hereto and of any certificate, opinion or other document herein mentioned, have the meanings herein specified, to be equally applicable to both the singular and plural forms of any of the terms herein defined. Unless otherwise defined in this Bond Indenture, all terms used herein shall have the meanings assigned to such terms in the Act or in the Loan Agreement, as the case may be.

**"Accountant"** means any independent certified public accountant or firm of such accountants selected by the Borrower.

**"Accredited Investor"** means an investor who qualifies as an "accredited investor" under any of the following categories at the time of the sale of the Bonds to that person or entity: (i) a bank, as defined in Section 3(a)(2) of the Securities Act of 1933, as amended (the "Securities Act"), or any savings and loan association or other institution as defined in Section 3(a) (5)(A) of the Securities Act, whether acting in its individual or fiduciary capacity; (ii) a broker or dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934, as amended. (the "Exchange Act"); (iii) an insurance company, as defined in Section 2(13) of the Securities Act; (iv) an investment company registered under the Investment Company Act of 1940; (v) an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, corporation, Massachusetts or similar business trust, or partnership not formed for the specific purpose of acquiring the Bonds, with total assets in excess of \$5,000,000; (iv) a natural person whose individual net worth, or joint net worth with that person's spouse at the time of purchase, exceeds \$1,000,000; (vii) a natural person who had an individual income in excess of \$200,000 in each of the two most recent years or joint income with that person's spouse in excess of \$300,000 in each of those years and who has a reasonable expectation of reaching the same income level in the current year; and (viii) a trust with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring the Bonds, whose purchase is directed by a sophisticated person as described in 17 C.F.R. Section 230.506(b)(2)(ii) promulgated under the Securities Act.

**"Act"** means Chapters 159, Parts II and III, of the Florida Statutes, as amended, as now in effect and as it may from time to time hereafter be amended or supplemented.

**"Additional Payments"** means the payments so designated and required to be made by the Borrower pursuant to Section 5.3 of the Loan Agreement.